

Message Text

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12

ORIGIN L-02

INFO OCT-01 IO-10 ISO-00 EUR-12 SS-15 CIAE-00 PM-03 INR-07

ACDA-05 NSAE-00 PA-01 RSC-01 PRS-01 SP-02 USIA-06

TRSE-00 SAJ-01 DODE-00 NSC-05 H-01 BIB-01 CU-02 /076 R

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R 242345Z JAN 75

FM SECSTATE WASHDC

TO USMISSION GENEVA

C O N F I D E N T I A L STATE 017881

E.O. 11652: GDS

TAGS: CSCE

SUBJECT: CSCE: POTENTIAL LEGAL DIFFICULTIES

REF: GENEVA 7580

GENEVA FOR US CSCE DEL

1. REFTTEL REPORTS THAT CANADIAN SUBCOMMITTEE L DELEGATION HAS INSISTED THAT PHRASE "PROMOTE, WITHIN THEIR COMPETENCE..." BE INCORPORATED IN TEXT UNDER CONSIDERATION IN SUBCOMMITTEE ON EDUCATION. CANADIAN DEL APPARENTLY FEELS THAT WORD "PROMOTE" INVOLVES A COMMITMENT OF SOME KIND TO SEE THAT MEASURES CITED ARE FULFILLED AND THEREFORE FEELS THAT THIS COMMITMENT MUST BE LIMITED FOR THE BENEFIT OF FEDERAL STATES ONLY TO MATTERS WITHIN THE COMPETENCE OF THE FEDERAL GOVERNMENT. WE DO NOT SHARE THIS VIEW AND CONCUR WITH DELEGATION'S DEFINITION OF THE WORD "PROMOTE." "PROMOTE" IN OUR VIEW IS VIRTUALLY SYNONOMOUS WITH ENCOURAGE SO THAT ALL STATES, EVEN FEDERAL STATES, HAVE
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COMPETENCE TO PROMOTE ANY OBJECTIVE THAT IS NOT ILLEGAL.

IF WE WERE TO ACCEPT CANADIAN DEFINITION OF "PROMOTE," OR
LEND IT CREDENCE BY ACCEPTING "COMPETENCE" REFERENCE IN
THE TEXT, SERIOUS QUESTIONS WOULD BE RAISED FOR FEDERAL
STATES ABOUT INTERPRETATION OF THE TERM, IN NUMEROUS
OTHER CSCE TEXTS WHERE "PROMOTE" IS USED WITHOUT ANY

REFERENCE TO COMPETENCE. (FOR EXAMPLE -- D/115, E/108,
H/105, H/107 REV 1, I/109, I/118, K/138 REV 2, K/144,
K/152 REV 1, L/106, L/111 ADD 1.) MANY OF THESE TEXTS
DEAL WITH SUBJECTS OUTSIDE THE COMPETENCE OF THE U.S.
FEDERAL GOVERNMENT TO GUARANTEE CONCRETE RESULTS. USDEL
SHOULD INFORM CANADIAN DEL THAT USG CANNOT ACCEPT REFERENCE
TO "COMPETENCE" AS DESCRIBED ABOVE IN THAT IT CREATES MANY
MORE PROBLEMS IN THE TEXTS FOR FEDERAL STATES THAN IT
SOLVES AND URGE HIM TO ADOPT OUR VIEW OF THE MEANING OF
"PROMOTE." INGERSOLL

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